

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CIVIL CASE NO. 3:06cv267

MARY S. REID,

Plaintiff,

vs.

**JOHN E. POTTER,
Postmaster General,
United States Postal Service,**

Defendant.

ORDER

THIS MATTER is before the Court on the Defendant's motion for leave to depose the Plaintiff outside the discovery period.

By Order entered October 19, 2007, the undersigned required the parties to respond to the issue of whether the complaint in this action was timely filed and denied the Plaintiff's motion for an extension of time for discovery. The Defendant had vehemently objected to an extension of discovery deadlines and pointed out that motion to dismiss the action for discovery violations was pending.

In this motion, the Defendant requests the opportunity to depose the

Plaintiff as to all issues despite the fact that discovery has closed and the Court has denied the Plaintiff's request to extend the period of discovery. Defendant has previously been granted an order of this Court requiring the Plaintiff to appear for a deposition, and when Plaintiff failed to comply Defendant sought the imposition of sanctions. For Defendant now to return to the issue of whether Plaintiff should be compelled to appear for a deposition is inconsistent with Defendant's motion for sanctions, which motion remains pending. The Court will, therefore, require the Defendant to advise the Court if he intends to withdraw his motion for sanctions.

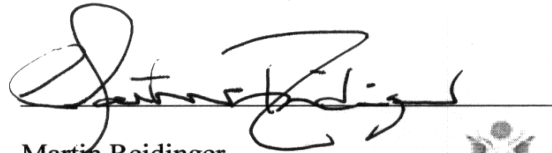
The parties are advised that they shall comply with the previous Order to brief the issue of timeliness. Once compliance has occurred, if the issue of timeliness is not resolved, the Court will reconsider discovery issues.

IT IS, THEREFORE, ORDERED that the parties shall comply with this Court's Order of October 19, 2007 as to the issue of timeliness of the action;

IT IS FURTHER ORDERED that the Defendant shall within the same 15 day time period advise the Court if it seeks to withdraw the motion for sanctions; and

IT IS FURTHER ORDERED that the Defendant's motion to depose the Plaintiff is hereby **DENIED** without prejudice.

Signed: October 22, 2007


Martin Reidinger
United States District Judge

